

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

ROBERT F. BAKER,)	
)	
Plaintiff,)	8:06cv655
)	
vs.)	MEMORANDUM AND ORDER
)	
ADELE A. TOMSU, et al.,)	
)	
Defendants.)	

This matter is before the court on the following pending motions filed by the plaintiff, Robert F. Baker: (1) filing no. 6, the Motion for Discovery; (2) filing no. 7, the Motion for Exemption from Pacer Fees; (3) filing no. 8, the Motion for Depositions; (4) filing no. 9, the Motion for Copies and for Clarification of Filing Fee; (5) filing no. 10, a letter which has been docketed as a Motion for Leave to Conduct Discovery; and (6) filing no. 13, an Affidavit docketed as a Motion to Leave to Amend Complaint, for Appointment of Counsel and for Exemption from Filing Fees. The plaintiff is a prisoner in the Douglas County Correctional Center ("DCCC").

Pursuant to the Prison Litigation Reform Act ("PLRA"), an imprisoned civil plaintiff must pay the court's entire \$350 filing fee, either at the outset when filing the complaint, or in installments if the court grants leave to proceed in forma pauperis ("IFP"). If a motion to proceed IFP is granted, the court assesses an initial partial filing fee in the amount of twenty (20) percent of the plaintiff's average monthly account balance or average monthly deposits, whichever is greater, for the six months preceding the filing of the complaint.

Pursuant to the Prisoner Payment Order entered on October 13, 2006, the plaintiff has a deadline of November 24, 2006 to make an initial partial filing fee of \$5. For prisoners proceeding IFP, initial review of the complaint, service of process on the defendant(s), and progression of the case do not occur until after the court receives the initial partial filing fee. Thus, the plaintiff's motions are premature and will be denied, without prejudice to reassertion after at least one defendant has been served with process and has entered an appearance.¹

¹Because the plaintiff filed an Amended Complaint (filing no. 11) with only one named defendant (Immanuel Hospital), together with John Doe defendants whose names

Therefore, all pending motions (filing nos. 6, 7, 8, 9, 10 and 13) are denied. The denial of filing nos. 6-10 and 13 is without prejudice to reassertion of the motions after the following events have taken place: (1) the plaintiff's initial partial filing fee has been received by the court; (2) the court has issued an Order on Initial Review and has sent the plaintiff the forms for service of process as part of that order; (3) the plaintiff has completed the forms for service of process and has returned them to the court; (4) the U.S. Marshal has served the named defendant with process; and (5) the named defendant has entered an appearance (through counsel) in this action.

SO ORDERED.

DATED this 6th day of November, 2006.

BY THE COURT:

s/ F. A. GOSSETT
United States Magistrate Judge

he expects to learn during discovery, the Clerk of Court shall terminate the previously named defendant, Joshua Newsome, from the docket sheet.